

DEC 30 2005

AFTER FINAL: ATTENTION TRAMMEL, J.

PTO/SB/07 (09-04)

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904-261-9992

Telephone Number

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(1) Supplement to Petition - 2 pp.

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AFTER FINAL COMMUNICATION VIA FACSIMILE TRANSMISSION

URGENT ATTN: James Trammel, Supervisory Examiner, Art Unit 3621

**SUPPLEMENT TO PETITION**

**IN RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF  
& SUPPLEMENTAL TO APPEAL BRIEF**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**UNDER GRANTED PETITION TO MAKE SPECIAL**

GROUP ART UNIT: 3621

EXAMINER: Backer, Firmin

INVENTOR(S): Triola, C.R.

SERIAL NO.: 09/833,390

CONF. NO.: 3769

FILED: April 11, 2001

SUBJECT: Method and Apparatus for Processing Escrow Transactions

**SUPPLEMENT TO SECOND PETITION TO INVOKE SUPERVISORY AUTHORITY UNDER 37  
C.F.R. 1.181**

TO: THE COMMISSIONER FOR PATENTS

ATTN: James Trammel, Supervisory Examiner, Art Unit 3621

This is in supplement to Appellant's pending Petition.

The Office via Examiner Backer has instructed that it is a requirement that Appendix pages must be included in an Appeal Brief even when there are no Related Appeals and Interferences.

This is not correct. On Aug. 12, 2004, at 69 Fed. Reg. 49960 et seq., the Office published:

"Comment 60: One comment requests clarification as to whether appendixes as required by §§ 41.37(c)(ix-x) are necessary at all when no evidence or related proceedings exist, or whether an appendix must be included with the indication "none."

Answer: Sections 41.37(c)(ix-x) require the appeal to contain an evidence appendix and a related proceedings appendix. If no evidence or related proceedings exist, an

DOCKET NO. CRT044US / 952817-8

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1 evidence appendix should be included with the indication "none" and a related  
2 proceedings appendix should be included with the indication "none." In addition, a brief  
3 containing a Table of Contents indicating that no evidence appendix is part of the brief or  
4 that no related proceedings appendix is part of the brief would be acceptable under the  
5 Rule since it would clearly indicate that no evidence is being relied upon by the appellant  
6 in the appeal or that no related proceedings having decisions rendered by a court or the  
7 Board exist."

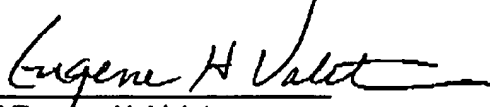
8  
9 The originally filed Brief had such a Table of Contents, in addition to indicating at page 3 that  
10 there were no related proceedings. Examiner Backer issued a Notice of Non-Compliant Appeal  
11 Brief (NNCAB) on July 12, 2005; said NNCAB alleged only Box 9 issues. Appellant filed a  
12 Petition against said NNCAB on July 15, 2005. The Petition was granted on August 12, 2005.  
13 Due to the 30-day requirement in the Notice, Appellant had filed an amended Brief on August  
14 11, 2005. Examiner Backer issued a second NNCAB on Dec. 14, 2005; now indicating there  
15 were alleged Box 8, 9, and 10 issues. Appellant filed a Petition against said second NNCAB.  
16 This Supplement further proves what Appellant has contended since July 2005. The Appeal  
17 Brief as originally filed was in full compliance with the Regulations and the MPEP.

18  
19 The present application is under a granted Petition to Make Special. It should be ordered that  
20 further delay over spurious arguments as the form of the Brief are prohibited. It is respectfully  
21 requested that it be ordered that either the Final Office Action be withdrawn or that an  
22 Examiner's Reply be entered post haste.

23  
24 All written communications must be sent via the address as indicated in the amended  
25 Appeal Brief and the twice filed SB/122. Questions or a teleconference may be directed to  
26 the undersigned at 904-261-9992, EST business hours 9 a.m.-11 a.m. and 1 p.m.-4 p.m.

27  
28 Date: 30 DEC 2005

Respectfully submitted,

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